



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/979,567	11/26/97	SHIOTA	K 2091-0145P-S

002292 LM71/1220  
BIRCH STEWART KOLASCH & BIRCH  
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EXAMINER  
MORGAN, G

ART UNIT	PAPER NUMBER
2761	

DATE MAILED: 12/20/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Advisory Action

Application No.

08/979,567

Applicant(s)

Shlota et al

Examiner

George Morgan

Group Art Unit

2761



THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☒ expires 3 months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☒ Appellant's Brief is due two months from the date of the Notice of Appeal filed on Dec 8, 1999 (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Dec 8, 1999 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

- ☒ The proposed amendment(s):

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☐ they raise new issues that would require further consideration and/or search. (See note below).
  - ☐ they raise the issue of new matter. (See note below).
  - ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE:

- ☐ Applicant's response has overcome the following rejection(s):

- ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

- ☐ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 1-27

- ☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.
- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Other

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Applicant's arguments have been fully considered but are not deemed to be persuasive, and the request for allowance is respectfully denied. Applicant is directed to the prior Office action for a more detailed explanation of the reasons for this final rejection.

One point that is worth re-emphasizing is that sufficient motivation would have existed for modifying the method of Moghadam et al. to include "high resolution picture image data" as taught by PC Magazine Online. It was pointed out in the prior Office action that the motivation would have been "to provide customers with higher quality photographic images to ensure that the photograph selected for order would appear similar to the actual photograph the customer would receive". See paragraph 7, lines 4-8 of the June 8, 1999 Office action. In the context of remotely selecting and ordering photographs, providing a clearer image over a more blurry image of the photographs would have been obviously desirable to one of ordinary skill in the art. Thus, it can be seen that adequate motivation to combine the references did exist.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Morgan whose telephone number is (703) 306-2906. The examiner can normally be reached on Monday to Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Voeltz, can be reached on (703) 305-9714. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-0040.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

December 20, 1999

D.M.



ALLEN R. MACDONALD  
SUPERVISORY PATENT EXAMINER